

**DEPARTMENT OF STATE REVENUE**

**LETTER OF FINDINGS NUMBER: 99-0413**

**Sales Tax**

**Calendar Years 1995, 1996, and 1997**

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**ISSUE(S)**

**I. Selling at Retail – Unreported Taxable Sales**

**Authority:** 45 IAC 2.2-6-8;

Taxpayer protests tax on unreported sales.

**STATEMENT OF FACTS**

Taxpayer was in the business of buying and selling used motor vehicles. No records were made available to the auditor and reliance was placed upon the accuracy of the ST-108 recap data obtained from the Bureau of Motor Vehicles. Taxpayer filed a return for January 1995 only and submitted no further returns. Billings were issued by the Department based on the best information available prior to audit.

Taxpayer submitted a protest for the 1995 year that was received by the Indiana Department of Revenue on July 27, 1999. Taxpayer's attorney submitted a written brief dated May 16, 2001 explaining that an assistant manager stole the proceeds.

**I. Selling at Retail – Unreported taxable sales**

**DISCUSSION**

Taxpayer states its assistant manager ran off with the money, therefore she is not liable.

In reviewing the audit report, it is noted that the assessment stems solely from a schedule of "Dealer Title Transactions". The auditor replaced the taxpayer's "best information" billings with those of the actual title transactions.

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Taxpayer was negligent in failing to monitor its associates' activities and should have been aware that no ST103's were filed. Taxpayer had billings before the onset of the audit and has not provided proof that the assessment is in error.

**FINDING**

Taxpayer's protest is denied.

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